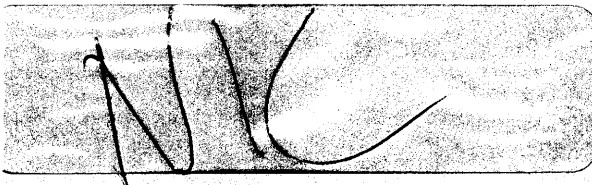


OFFICE OF THE CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
1301 CLAY STREET, 400 S. TOWER  
OAKLAND, CALIFORNIA 94612-5212

OFFICIAL BUSINESS  
PENALTY FOR PRIVATE USE \$300

**FILED**  
APR 21 2008  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND



NLC

C-08-1793-SBA

RETURN TO SENDER  
NOT IN CUSTODY

Theodore W. Gandy DPR 996  
Santa Clara County Jail - San Jose  
885 N. San Pedro  
San Jose, CA 95110

CV08-01793 SBA

**RECEIVED**

APR - 2 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**E-filing**

APR 15 2008 PM 12:00  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C §§ 1983**

2  
3 Name Gandy Theodore W  
4 (Last) (First) (Initial)  
5 Prisoner Number DP# 996  
6 Institutional Address 885 N. San Pedro - San Jose, CA  
7 95110  
8

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

Theodore William Gandy Jr  
(Enter the full name of plaintiff in this action.)

vs.

Sgt. St. Amour #2095  
Officer Dave Lee #3827  
Officer Hux ?  
Santa Clara County D.A. et al  
(Enter the full name of the defendant(s) in this action))  
San Jose Police Dept et al

**08 1793**

Case No. \_\_\_\_\_  
(To be provided by the clerk of court)

**COMPLAINT UNDER THE  
CIVIL RIGHTS ACT,  
42 U.S.C §§ 1983**

**SBA**

**(PR)**

[All questions on this complaint form must be answered in order for your action to proceed..]

**I. Exhaustion of Administrative Remedies**

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

A. Place of present confinement 885 N. San Pedro Ave - San Jose, CA 95110

B. Is there a grievance procedure in this institution?

YES ( ) NO ( ) NA

C. Did you present the facts in your complaint for review through the grievance procedure?

YES ( ) NO ( ) NA

D. If your answer is YES, list the appeal number and the date and result of the

COMPLAINT

E-filing

SBA

(PR)

## **U.S. District Court Northern California**

### **ECF Registration Information Handout**

The case you are participating in has been designated for this court's Electronic Case Filing (ECF) Program, pursuant to Civil Local Rule 5-4 and General Order 45. This means that you **must** (check off the boxes ☒ when done):

- ☐ **1) Serve** this ECF Registration Information Handout on **all** parties in the case along with the complaint, or for removals, the removal notice. **DO NOT** serve the efiler application form, just this handout.

Each attorney representing a party must also:

- ☐ **2) Register** to become an efiler by filling out the efiler application form. Follow **ALL** the instructions on the form carefully. If you are already registered in this district, do not register again, your registration is valid for life on all ECF cases in this district.
- ☐ **3) Email** (do not efile) the complaint and, for removals, the removal notice and all attachments, in PDF format within ten business days, following the instructions below. You do not need to wait for your registration to be completed to email the court.
- ☐ **4) Access** dockets and documents using **PACER** (Public Access to Court Electronic Records). If your firm already has a PACER account, please use that - it is not necessary to have an individual account. PACER registration is free. If you need to establish or check on an account, visit: <http://pacer.psc.uscourts.gov> or call **(800) 676-6856**.

BY SIGNING AND SUBMITTING TO THE COURT A REQUEST FOR AN ECF USER ID AND PASSWORD, YOU CONSENT TO ENTRY OF YOUR E-MAIL ADDRESS INTO THE COURT'S ELECTRONIC SERVICE REGISTRY FOR ELECTRONIC SERVICE ON YOU OF ALL E-FILED PAPERS, PURSUANT TO RULES 77 and 5(b)(2)(D) (eff. 12.1.01) OF THE FEDERAL RULES OF CIVIL PROCEDURE.

**All subsequent papers submitted by attorneys in this case shall be filed electronically. Unrepresented litigants must file and serve in paper form, unless prior leave to file electronically is obtained from the assigned judge.**

ECF registration forms, interactive tutorials and complete instructions for efilng may be found on the ECF website: <http://ecf.cand.uscourts.gov>

**Submitting Initiating Documents**

PDF versions of all the initiating documents originally submitted to the court (Complaint or Notice of Removal, exhibits, etc.) must be **emailed (not efiled)** to the **PDF email box for the presiding judge** (not the referring judge, if there is one) **within 10 (ten) business days** of the opening of your case. For a complete list of the email addresses, please go to: **<http://ecf.cand.uscourts.gov>** and click on **[Judges]**.

You must include the case number and judge's initials in the subject line of all relevant emails to the court. You do not need to wait for your registration to email these documents.

These documents must be emailed instead of e-filed to prevent duplicate entries in the ECF system. All other documents must be e-filed from then on. You do not need to efile or email the Civil Cover Sheet, Summons, or any documents issued by the court at case opening; note that you do need to efile the Summons Returned.

**Converting Documents to PDF**

Conversion of a word processing document to a PDF file is required before any documents may be submitted to the Court's electronic filing system. Instructions for creating PDF files can be found at the ECF web site: **<http://ecf.cand.uscourts.gov>**, and click on **[FAQ]**.

**Email Guidelines:** When sending an email to the court, the subject line of the email **must** contain the **case number**, **judge's initials** and the **type of document(s)** you are sending, and/or the topic of the email.

**Examples:** The examples below assume your case number is 03-09999 before the Honorable Charles R. Breyer:

Type of Document	Email Subject Line Text
Complaint Only	03-09999 CRB Complaint
Complaint and Notice of Related Case	03-09999 CRB Complaint, Related Case
Complaint and Motion for Temporary Restraining Order	03-09999 CRB Complaint, TRO

**Questions**

Almost all questions can be answered in our **FAQs** at **<http://ecf.cand.uscourts.gov>**, please check them first.

You may also email the ECF Help Desk at [ECFhelpdesk@cand.uscourts.gov](mailto:ECFhelpdesk@cand.uscourts.gov) or call the toll-free ECF Help Desk number at: (866) 638-7829.

The ECF Help Desk is staffed Mondays through Fridays from 9:00am to 4:00pm Pacific time, excluding court holidays.

E-filing

FILED  
08 APR -3 PM 12:02  
RICHARD W. WIERING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Plaintiff,

CASE NO. \_\_\_\_\_

vs.

PRISONER'S  
APPLICATION TO PROCEED  
IN FORMA PAUPERIS

SBA

(PR)

Defendant.

I, Theodore W. Bruck, declare, under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes \_\_\_ No NO

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: \_\_\_\_\_ Net: \_\_\_\_\_

Employer: N/A

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

E-filing

Dear Sir or Madam:

Your complaint has been filed as civil case number \_\_\_\_\_

✓ A filing fee of \$350.00 is now due. If you are unable to pay the entire filing fee at this time, you must sign and complete this court's Prisoner's In Forma Pauperis Application in its entirety. If the application is granted, you will not have to prepay the fee, but it will be taken out of income to your prisoner account in installments.

Your complaint is deficient because you did not pay the filing fee and:

1. \_\_\_\_\_ you did not file an In Forma Pauperis Application.
2. ✓ the In Forma Pauperis Application you submitted is insufficient because:

\_\_\_\_\_ You did not use the correct form. You must submit this court's current Prisoner's In Forma Pauperis Application.

\_\_\_\_\_ Your In Forma Pauperis Application was not completed in its entirety.

\_\_\_\_\_ You did not sign your In Forma Pauperis Application.

✓ \_\_\_\_\_ You did not submit a Certificate of Funds in Prisoner's Account completed and signed by an authorized officer at the prison.

✓ \_\_\_\_\_ You did not attach a copy of your prisoner trust account statement showing transactions for the last six months.

\_\_\_\_\_ Other \_\_\_\_\_

Enclosed you will find this court's current Prisoner's In Forma Pauperis Application, which includes a Certificate of Funds in Prisoner's Account form, and a return envelope for your convenience.

**Warning: YOU MUST RESPOND TO THIS NOTICE. If you do not respond within THIRTY DAYS from the filing date stamped above, your action will be DISMISSED, the file closed and the entire filing fee will become due immediately. Filing a prisoner's In Forma Pauperis Application will allow the court to determine whether installment payment of the filing fee should be allowed.**

Sincerely,  
RICHARD W. WIEKING, Clerk,

By \_\_\_\_\_  
Deputy Clerk

GANDY



1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3 **INSTRUCTIONS FOR PRISONER'S**  
4 **IN FORMA PAUPERIS APPLICATION**

5 You must submit to the court a completed Prisoner's In Forma Pauperis Application if  
6 you are unable to pay the entire filing fee at the time you file your complaint or petition. Your  
7 application must include copies of the prisoner trust account statement showing transactions  
8 for the last six months and a certificate of funds in prisoner's account, signed by an authorized  
9 officer of the institution.

10 **A. Non-habeas Civil Actions**

11 Effective April 9, 2006, the filing fee for any civil action other than a habeas is  
12 \$350.00. Even if you are granted leave to proceed in forma pauperis, you must still pay the  
13 full amount of the court's filing fee, but the fee will be paid in several installments. 28 U.S.C.  
14 § 1915.

15 You must pay an initial partial filing fee of 20 percent of the greater of (a) the average  
16 monthly deposits to your account for the 6-month period immediately before the complaint  
17 was filed or (b) the average monthly balance in your account for the 6-month period  
18 immediately before the complaint was filed. The court will use the information provided on  
19 the certificate of funds and the trust account statement to determine the filing fee immediately  
20 due and will send instructions to you and the prison trust account office for payment if in  
21 forma pauperis status is granted.

22 After the initial partial filing fee is paid, your prison's trust account office will forward  
23 to the court each month 20 percent of the most recent month's income to your prison trust  
24 account, to the extent the account balance exceeds ten dollars (\$10.00). Monthly payments  
25 will be required until the full filing fee is paid. If you have no funds over ten dollars (\$10.00)  
26 in your account, you will not be required to pay part of the filing fee that month.

27 If your application to proceed in forma pauperis is granted, you will be liable for  
28 the full \$350.00 filing fee even if your civil action is dismissed. That means the court will  
continue to collect payments until the entire filing fee is paid. However, if you do not  
submit this completed application the action will be dismissed without prejudice and the  
filing fee will not be collected.

29 **B. Habeas Actions**

30 The filing fee for a habeas action is \$5.00. If you are granted leave to proceed in  
31 forma pauperis you will not be required to pay any portion of this fee. If you are not granted  
32 leave to proceed in forma pauperis you must pay the fee in one payment and not in  
33 installments. If you use a habeas form to file a non-habeas civil action, you will be  
34 required to pay the \$350.00 filing fee applicable to all non-habeas civil actions.

E-filing

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Plaintiff,

vs.

Defendant.

CASE NO. \_\_\_\_\_

PRISONER'S  
APPLICATION TO PROCEED  
IN FORMA PAUPERIS

1793

SBA  
(PR)

I, \_\_\_\_\_, declare, under penalty of perjury that I am the plaintiff in the above entitled case and that the information I offer throughout this application is true and correct. I offer this application in support of my request to proceed without being required to prepay the full amount of fees, costs or give security. I state that because of my poverty I am unable to pay the costs of this action or give security, and that I believe that I am entitled to relief.

In support of this application, I provide the following information:

1. Are you presently employed? Yes \_\_\_\_ No \_\_\_\_

If your answer is "yes," state both your gross and net salary or wages per month, and give the name and address of your employer:

Gross: \_\_\_\_\_ Net: \_\_\_\_\_

Employer: \_\_\_\_\_

1 If the answer is "no," state the date of last employment and the amount of the gross and net  
 2 salary and wages per month which you received. (If you are imprisoned, specify the last  
 3 place of employment prior to imprisonment.)

4 \_\_\_\_\_  
 5 \_\_\_\_\_  
 6 \_\_\_\_\_

7 2. Have you received, within the past twelve (12) months, any money from any of the  
 8 following sources:

- 9 a. Business, Profession or Yes \_\_\_\_ No \_\_\_\_  
 10 self employment  
 11 b. Income from stocks, bonds, Yes \_\_\_\_ No \_\_\_\_  
 12 or royalties?  
 13 c. Rent payments? Yes \_\_\_\_ No \_\_\_\_  
 14 d. Pensions, annuities, or Yes \_\_\_\_ No \_\_\_\_  
 15 life insurance payments?  
 16 e. Federal or State welfare payments, Yes \_\_\_\_ No \_\_\_\_  
 17 Social Security or other govern-  
 18 ment source?

19 If the answer is "yes" to any of the above, describe each source of money and state the amount  
 20 received from each.

21 \_\_\_\_\_  
 22 \_\_\_\_\_

23 3. Are you married? Yes \_\_\_\_ No \_\_\_\_

24 Spouse's Full Name: \_\_\_\_\_

25 Spouse's Place of Employment: \_\_\_\_\_

26 Spouse's Monthly Salary, Wages or Income:

27 Gross \$ \_\_\_\_\_ Net \$ \_\_\_\_\_

28 4. a. List amount you contribute to your spouse's support: \$ \_\_\_\_\_

1 b. List the persons other than your spouse who are dependent upon you for  
 2 support and indicate how much you contribute toward their support. (NOTE:  
 3 For minor children, list only their initials and ages. DO NOT INCLUDE  
 4 THEIR NAMES.).

5 \_\_\_\_\_

6 \_\_\_\_\_

7 5. Do you own or are you buying a home? Yes \_\_\_\_ No \_\_\_\_

8 Estimated Market Value: \$ \_\_\_\_\_ Amount of Mortgage: \$ \_\_\_\_\_

9 6. Do you own an automobile? Yes \_\_\_\_ No \_\_\_\_

10 Make \_\_\_\_\_ Year \_\_\_\_\_ Model \_\_\_\_\_

11 Is it financed? Yes \_\_\_\_ No \_\_\_\_ If so, Total due: \$ \_\_\_\_\_

12 Monthly Payment: \$ \_\_\_\_\_

13 7. Do you have a bank account? Yes \_\_\_\_ No \_\_\_\_ (Do not include account numbers.)

14 Name(s) and address(es) of bank: \_\_\_\_\_

15 \_\_\_\_\_

16 Present balance(s): \$ \_\_\_\_\_

17 Do you own any cash? Yes \_\_\_\_ No \_\_\_\_ Amount: \$ \_\_\_\_\_

18 Do you have any other assets? (If "yes," provide a description of each asset and its estimated  
 19 market value.) Yes \_\_\_\_ No \_\_\_\_

20 \_\_\_\_\_

21 8. What are your monthly expenses?

22 Rent: \$ \_\_\_\_\_ Utilities: \_\_\_\_\_

23 Food: \$ \_\_\_\_\_ Clothing: \_\_\_\_\_

24 Charge Accounts:

25	<u>Name of Account</u>	<u>Monthly Payment</u>	<u>Total Owed on This Acct.</u>
26	_____	\$ _____	\$ _____
27	_____	\$ _____	\$ _____
28	_____	\$ _____	\$ _____

1 9. Do you have any other debts? (List current obligations, indicating amounts and to  
2 whom they are payable. Do not include account numbers.)  
3 \_\_\_\_\_  
4 \_\_\_\_\_

5 10. Does the complaint which you are seeking to file raise claims that have been presented  
6 in other lawsuits? Yes \_\_\_\_ No \_\_\_\_

7 Please list the case name(s) and number(s) of the prior lawsuit(s), and the name of the court in  
8 which they were filed.  
9 \_\_\_\_\_  
10 \_\_\_\_\_

11 I consent to prison officials withdrawing from my trust account and paying to the court  
12 the initial partial filing fee and all installment payments required by the court.

13 I declare under the penalty of perjury that the foregoing is true and correct and  
14 understand that a false statement herein may result in the dismissal of my claims.  
15 \_\_\_\_\_

16 \_\_\_\_\_  
17 DATE

18 \_\_\_\_\_  
19 SIGNATURE OF APPLICANT  
20  
21  
22  
23  
24  
25  
26  
27  
28

Case Number: \_\_\_\_\_

**CERTIFICATE OF FUNDS**  
**IN**  
**PRISONER'S ACCOUNT**

I certify that attached hereto is a true and correct copy of the prisoner's trust account statement showing transactions of \_\_\_\_\_ for the last six months  
[prisoner name]  
\_\_\_\_\_ where (s)he is confined.

[name of institution]  
I further certify that the average deposits each month to this prisoner's account for the most recent 6-month period were \$ \_\_\_\_\_ and the average balance in the prisoner's account each month for the most recent 6-month period was \$ \_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
[Authorized officer of the institution]